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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Louis M. Heidelberger Reed Smith LLP 2500 One Liberty Place 1650 Market Street Philadelphia, PA 19103-7301			EXAMINER CHAN, SING P	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,443

Applicant(s)

SELLARS, NEIL G.

Examiner

Sing P. Chan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 33-42, and 47-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Atkins (GB 2,299,568).

Regarding claim 33, Atkins discloses a method of forming a label assembly. The method includes providing a planar member with oppositely first and second surfaces, a length greater than the periphery of the object to be label, a portion for evidencing potential tempering, printing indicia on one of the surfaces, applying pressure sensitive adhesive on the label assembly, and affixing the label assembly about the periphery of the object. (Page 6, line 26 to Page 7, line 5)

Regarding claim 34, Atkins discloses applying a peelable adhesive, which is a releasable adhesive, onto the label assembly. (Page 7, lines 6-11)

Regarding claim 35, Atkins discloses applying a release coating to the top surface of the first end of the label, which is considered to be protective material. (Page 6, lines 34-35)

Regarding claim 36, Atkins discloses applying a de-sensitive material to "killed" a strip of adhesive on the underside. (Page 4, lines 24-28 and Page 6, line 35 to Page 7, line 1)

Regarding claims 37, and 38, Atkins discloses forming tear lines by a perforator for forming a tearable strip to facilitate separation of a part of the label assembly. (Page 7, lines 2-3)

Regarding claim 39, Atkins discloses a method of forming a label assembly. The method includes providing a planar member with oppositely first and second surfaces, a length greater than the periphery of the object to be label with first and second edges portions forming an oblique angle, providing a pair of notches, i.e. recess, which form a tab, applying pressure sensitive adhesive on the label assembly, and affixing the label assembly about the periphery of the object. (Page 6, line 26 to Page 7, line 5)

Regarding claim 40, Atkins discloses applying a peelable adhesive, which is a releasable adhesive, onto the label assembly. (Page 7, lines 6-11)

Atkins discloses applying a release coating to the top surface of the first end of the label, which is considered to be protective material. (Page 6, lines 34-35)

Regarding claim 41, Atkins discloses applying a de-sensitive material to "killed" a strip of adhesive on the underside. (Page 4, lines 24-28 and Page 6, line 35 to Page 7, line 1)

Regarding claims 48 and 49, Atkins discloses forming tear lines by a perforator for forming a tearable strip to facilitate separation of a part of the label assembly. (Page 7, lines 2-3)

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1. Regarding claims 47 and 50, Atkins discloses the tear lines, which facilitate removal of a strip and provides tamper evidence. (Page 5, lines 22-26)
2. Claims 39-42, 48 and 49 rejected under 35 U.S.C. 102(b) as being anticipated by Holden-Banks (GB 2,311,273).

Regarding claim 39, Holden-Banks discloses a method of forming a wrap around label. The label includes two portions (Figures 2, 5, 11, and 12) with a combined length that is greater than the circumference of the container with a first and second edges in opposite position with different length and a portion of the label with the edge at an oblique angle, coating the adhesive to the contact surface of the label to the container, wherein the adhesive is considered to be pressure sensitive adhesive, printing ink onto the underside adhesive face, and printing the opposite face of the label without the adhesive coating. (Page 4, lines 1-15 and Page 12, lines 1-27 and Figures 10-12)

Regarding claim 41, Holden-Banks discloses printing a coating over the printed matter to form a thin film of release agent, which is considered to be a protective material. (Page 12, lines 21-23)

40, and 42, Holden-Banks discloses applying a coating of release material such as Emiflex to the adhesive to deadening an adhesive region to form a releasable adhesive to allow delamination of the label material and prevent permanent bonding. (Page 6, lines 17-32 and Page 8, lines 6-15)

Regarding claims 48 and 49, Holden-Banks discloses the label includes semi-cuts or perforations to allow separation of the part of the label from the other part of the label. (Page 4, lines 3-11)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) in view of Walter et al (U.S. 5,591,290) and Holden-Banks (GB 2,311,273).

Regarding claims 9 and 10, Atkins discloses a method of forming a label assembly. The method includes providing a self adhesive carrier label member with oppositely first and second surfaces, with a release backing, printing indicia onto the label, preparing select surface by applying a de-sensitize material onto a strip of adhesive on the underside. (Page 4, lines 21-24 and Page 6, line 26 to Page 7, line 5) Atkins is silent as removing a release paper from the pressure sensitive adhesive material, printing on the de-sensitized surface, and reapplying the release paper to the pressure sensitive adhesive material. However, removing the release paper to prepare the surface of the adhesive label and reapplying the release paper is well known and conventional as shown for example by Walter et al. Walter et al discloses a method of applying de-sensitizing material onto the adhesive surface of a label. The method includes providing a label assembly with release paper covering the pressure sensitive

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adhesive, delaminating the release paper to expose the adhesive surface printing the de-sensitizing material onto the adhesive material, and relaminating the release paper onto the adhesive material. (Col 4, lines 15-22 and Col 5, line 58 to Col 6, line 4)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the release paper to prepare, i.e. to apply de-sensitizing material, the surface of the adhesive label and reapplying the release paper as disclosed by Walter et al in the method of Atkins to modifying existing adhesive bonding strength of previously manufactured pressure sensitive label stock to allow easy separation from the support surface. (Col 2, lines 34-39) Atkins as modified by Walter et al is silent as to printing on the adhesive surface. However, printing on the adhesive surface is well known and conventional as shown for example by Holden-Banks.

Holden-Banks discloses a method of forming a wrap around label. The label includes two portions (Figures 2, 5, 11, and 12) with a combined length that is greater than the circumference of the container and the width of the label, coating the adhesive to the contact surface of the label to the container, wherein the adhesive is considered to be pressure sensitive adhesive, printing ink onto the underside adhesive face, and printing the opposite face of the label without the adhesive coating. (Page 4, lines 1-15 and Page 12, lines 1-27)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to printing on the adhesive surface as disclosed by Holden-Banks in the method of Atkins as modified by Walter et al to allow printed material contained on the label to be hidden from view until the product is purchased. (Page 13, lines 9-11)

Regarding claim 11, Atkins discloses applying a release coating to the top surface of the first end of the label, which is considered to be protective material. (Page 6, lines 34-35)

Regarding claim 13, Atkins discloses the tear lines, which facilitate removal of a strip and provides tamper evidence. (Page 5, lines 22-26)

Regarding claim 14, Atkins discloses a label with first and second edges of different lengths and the edge portions forming an oblique angle with remaining label portion. (Figures 1, 3, 5-7)

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) in view of Walter et al (U.S. 5,591,290) and Holden-Banks (GB 2,311,273) as applied to claim 9 above, and further in view of Kaufmann (U.S. 5,264,265).

Atkins as modified above is silent as to the label includes a protruding tab and a corresponding recessed edge to facilitating detaching and reattaching the label. However, providing a protruding tab and a recessed edge on a label, which can be reattached is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply label. The label includes a tab and a recess edge on the bottom label to allow reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tab and a corresponding recessed edge on any label as disclosed by Kaufmann in the method of Atkins as modified by the combination of

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references to provide a consumer friendly "peel tab" mechanism for easy detaching and reattaching the label. (Col 1, lines 49-51)

6. Claims 15-22, 24, 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Kaufmann (U.S. 5,264,265).

Regarding claims 15, 16, 24, and 26, Holden-Banks discloses a method of forming a wrap around label. The label includes two portions (Figures 2, 5, 11, and 12) with a combined length that is greater than the circumference of the container and the width of the label, coating the adhesive to the contact surface of the label to the container, wherein the adhesive is considered to be pressure sensitive adhesive, printing ink onto the underside adhesive face, and printing the opposite face of the label without the adhesive coating. (Page 4, lines 1-15 and Page 12, lines 1-27) Holden-Banks is silent as to the label includes a protruding tab and a recessed edge to facilitating detaching and reattaching the label. However, providing a protruding tab and a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply label. The label includes a tab and a recess edge on the bottom label to allow reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Holden-Banks to provide a simple and easy means for detaching and reattaching the label.

Regarding claims 17, 19, 27, and 29, Holden-Banks discloses applying a coating of release material such as Emiflex to the adhesive to deadening an adhesive region to form a releasable adhesive to allow delamination of the label material and prevent permanent bonding. (Page 6, lines 17-32 and Page 8, lines 6-15)

Regarding claims 18 and 28, Holden-Banks discloses printing a coating over the printed matter to form a thin film of release agent, which is considered to be a protective material. (Page 12, lines 21-23)

Regarding claim 20, Holden-Banks discloses applying the release coating to the adhesive to a strip of adhesive to deaden the adhesive to form a liftable tab, (Page 5, line 28 to Page 6, line 2) but is silent as to completely deaden the adhesive at the tab. However, Kaufmann discloses the lift tab has no tacky adhesive on the underside (Col 2, lines 48-50) and one in the art reading Holden-Banks and Kaufmann would appreciate wherein there is adhesive on the underside of the lift tab to logically completely deaden the adhesive to allow easy lifting of the tab into a grabble position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to logically completely deaden the adhesive on the underside of the liftable tab in the method of Holden-Banks to allow easy lifting of the tab into a grabble position.

Regarding claims 21, 22, 30, and 31, Holden-Banks discloses the label includes semi-cuts or perforations to allow separation of the part of the label from the other part of the label. (Page 4, lines 3-11)

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7. Claims 23, 25, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Kaufmann (U.S. 5,264,265) as applied to claims 15 and 26 above, and further in view of Atkins (GB 2,299,568).

Holden-Banks as disclosed above does not disclose the label includes means for evidencing potential tampering. However, providing label with means for evidencing potential tampering is well known and conventional as shown for example by Atkins. Atkins discloses forming tear lines by a perforator for forming a tearable strip to facilitate separation of a part of the label assembly. (Page 7, lines 2-3)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a means for tamper-evident portion and label portion as disclosed by Atkins in the method of Holden-Banks as modified by Kaufmann to allow the label to show tampering easily and allow the consumer to easily avoid any contaminated products.

8. Claims 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) as applied to claims 1 and 39 above, and further in view of Kaufmann (U.S. 5,264,265).

Regarding claims 43, 45, and 46, Holden-Banks as disclosed above is silent as to the label includes a tab and a recessed edge to facilitating detaching and reattaching the label. However, providing a tab and a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply label. The label includes a tab and a

recess edge on the bottom label to allow reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Holden-Banks to provide a simple and easy means for detaching and reattaching the label.

Regarding claim 44, Holden-Banks discloses applying the release coating to the adhesive to a strip of adhesive to deaden the adhesive to form a liftable tab, (Page 5, line 28 to Page 6, line 2) but is silent as to completely deaden the adhesive at the tab. However, Kaufmann discloses the lift tab has no tacky adhesive on the underside (Col 2, lines 48-50) and one in the art reading Holden-Banks and Kaufmann would appreciate wherein there is adhesive on the underside of the lift tab to logically completely deaden the adhesive to allow easy lifting of the tab into a grabble position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to logically completely deaden the adhesive on the underside of the liftable tab in the method of Holden-Banks to allow easy lifting of the tab into a grabble position.

9. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) as applied to claims 1 and 49 above, and further in view of Atkins (GB 2,299,568).

Holden-Banks as disclosed above does not disclose the label includes means for evidencing potential tampering. However, providing label with means for evidencing

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potential tampering is well known and conventional as shown for example by Atkins.

Atkins discloses a wrap around label with tamper-evident feature. The label includes perforation, which divides the sheet into tamper-evident portion and label portion.

(Page 5, lines 22-26)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a means for tamper-evident portion and label portion as disclosed by Atkins in the method of Holden-Banks to provide tamper evidence security.

(Page 3, lines 3-5)

10. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Kaufmann (U.S. 5,264,265) as applied to claim 46 above, and further in view of Atkins (GB 2,299,568).

Holden-Banks as modified above does not disclose the label includes means for evidencing potential tampering. However, providing label with means for evidencing potential tampering is well known and conventional as shown for example by Atkins. Atkins discloses a wrap around label with tamper-evident feature. The label includes perforation, which divides the sheet into tamper-evident portion and label portion.

(Page 5, lines 22-26)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a means for tamper-evident portion and label portion as disclosed by Atkins in the method of Holden-Banks to provide tamper evidence security.

(Page 3, lines 3-5)

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11. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Atkins (GB 2,299,568) as applied to claim 50 above, and further in view of Kaufmann (U.S. 5,264,265).

Holden-Banks as modified above is silent as to the label includes a recessed edge to facilitating detaching and reattaching the label. However, providing a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply label. The label includes a recess edge on the bottom label to allow easy lifting and grasping for detaching and reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Holden-Banks as modified by Atkins to provide a simple and easy means for detaching and reattaching the label.

12. Claims 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) as applied to claims 1 and 39 above, and further in view of Kaufmann (U.S. 5,264,265).

Regarding claims 43, 45, and 46, Atkins as disclosed above is silent as to the label includes a tab and a recessed edge to facilitating detaching and reattaching the label. However, providing a tab and a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply label. The label includes a tab and a recess

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edge on the bottom label to allow reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Atkins to provide a simple and easy means for detaching and reattaching the label.

Regarding claim 44, Atkins is silent as to completely deaden the adhesive at the tab. However, Kaufmann discloses the lift tab has no tacky adhesive on the underside (Col 2, lines 48-50) and one in the art reading Atkins and Kaufmann would appreciate wherein there is adhesive on the underside of the lift tab to logically completely deaden the adhesive to allow easy lifting of the tab into a grabble position.

It would have been obvious to one skilled in the art at the time the invention was made to logically completely deaden the adhesive on the underside of the liftable tab in the method of Atkins as modified by Kaufmann to allow easy lifting of the tab into a grabble position.

Regarding claim 50, Atkins as disclosed above is silent as to the label includes a recessed edge to facilitating detaching and reattaching the label. However, providing a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply label. The label includes a recess edge on the bottom label to allow easy lifting and grasping for detaching and reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one skilled in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Holden-Banks to provide a simple and easy means for detaching and reattaching the label.

Response to Arguments

13. Applicant's arguments, see Page 15, line 1 to Page 16, line 13, filed March 8, 2005, with respect to Atkins have been fully considered and are persuasive. The rejection of claims 15-23 and 25-32 has been withdrawn.

14. Applicant's arguments filed March 8, 2005 have been fully considered but they are not persuasive.

15. In response to applicant's argument of Atkins fail to teach printing indicia on at least one of a portion of said first surface and a portion of said second surface as recited in claim 33. The claim as recited only required at least one of a portion of said first surface and a portion of said second surface and does not required both surfaces to be printed.

16. In response to applicant's argument of Atkins does not teach the use of obliquely oriented portion of a label member. The claim does not distinguish what portion of the label member is oriented at an oblique angle and interpreting the claim as broadly as possible, would includes edges of the label member, which are oriented at an oblique angle.

17. In response to applicant's argument of Holden-Banks does not teach the use of obliquely oriented portion of a label member. The claim does not distinguish what

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portion of the label member is oriented at an oblique angle and interpreting the claim as broadly as possible, would includes edges of the label member, which are oriented at an oblique angle.

18. In response to applicant's argument that Atkins, Walter, and Holden-Banks fails to teach the removal of release paper from adhesive, then printing a de-sensitized surface, and finally reapplication of the release paper and Holden-Banks does not teach printing on pressure sensitive adhesive. However, Walter does teach a method of modifying the adhesive bonding strength of a pressure sensitive adhesive. The method includes providing a stock laminate with a substrate with a pressure sensitive adhesive coating and a release paper (Col 2, lines 40-43), delaminating and separating the release paper from the adhesive, applying a non-adhesive material between the separated layers and then relaminate or reapplying the release paper to the adhesive layer (Col 4, lines 17-22), which serve the same process as "reapplication" of the release paper. The non-adhesive material is printed onto the adhesive layer or to the release paper (Col 5, lines 58-61), which provided the teaching of all the elements as claimed. The combination of Atkins, Walter, and Holden-Banks disclose the instant invention.

19. In response to applicant's argument of Kaufmann teaches permanently bonding a tab to the bottom ply. The examiner review Kaufmann as a whole, which recited the underside of the tab is not coated with adhesive (Col 2, lines 48-50) to allow the tab to function as a peel-tab and the permanent adhesive on the top ply is coated with a liquid varnish to detackifying or deadening agent to the adhesive (Col 2, lines 58-62) to allow

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the top ply to be peeled from the bottom ply. The top ply is permanently bonded to the bottom ply at the edge (5) (hinge) to the bottom ply and releasably in all other areas (Col 3, lines 5-8) and therefore the recitation of "top ply 2 is bonded permanently to the bottom ply 3 in the an area 6 which functions as a consumer peel-tab" is a typo, which should states the area 6 is not bonded to the bottom ply 3, since the Kaufmann as a whole teaches top ply as peelable from the bottom ply except the hinge or edge 5.

20. In response to applicant's argument of Holden-Banks and Kaufmann does not disclose a tab with adhesive on its underside for facilitating re-attachment. Claim 15 does not recite such requirement. The claim only required a tab portion for facilitating at least partial separation and re-attachment and applying adhesive suitable for affixing the device about the object and does not recite applying adhesive to the underside of the tab portion.

21. In response to applicant's argument of Kaufmann recessed edge fails to disclose the use of recessed edge for facilitating at least partial separation and re-attachment of the label. However, the Figure1 shows the recess edge, which would provide a consumer easy access to the peel tab to peel back the top film and to allow resealing of the top ply (Col 3, lines 15-25). The combination of Holden-Banks and Kaufmann discloses the instant invention.

22. In response to applicant's argument that there is no suggestion to combine the references, i.e. Holden-Banks and Kaufmann the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation


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to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is the recessed edge provide a gap between the peel tab and the container to allow for easy access by consumer's hand or fingers to grasp the peel tab and that is knowledge generally available to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P. Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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SUPERVISORY PATENT EXAMINER
Au 1734